

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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WORKING PARTY ON THE ACCESSION OF CHINESE TAIPEI

Questions and Replies

CANADA

The Representative of Chinese Taipei has submitted the replies reproduced hereunder to the questions submitted by Canada, for circulation to members of the Working Party on the Accession of Chinese Taipei. This text and the earlier documentation reproduced in documents L/7189/Rev.1 and L/7097 and Addenda will be considered at the meeting of the Working Party scheduled to take place on 12-15 October 1993.

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The question numbers (Q.#") referred to in this document relate, unless otherwise indicated, to GATT Document L/7189/Rev.1 17 June 1993.

1. Question 2: Transition periods:

- (a) Chinese Taipei has indicated that a transitional period would be required for the aerospace industry. What would be the length of the transition period? What type of measures "inconsistent with GATT provisions" does Chinese Taipei have in mind to assist its aerospace industry?

Reply 1(a)

The GATT provision that Chinese Taipei is primarily concerned about and require a transitional period is Article VI dealing with subsidies to the aerospace industry. Currently Chinese Taipei does not have any subsidies which are not consistent with Article VI of the GATT. However, as Chinese Taipei's effort to develop its aerospace industry materializes, there may be measures taken that are not strictly in compliance with Article VI. Chinese Taipei is still assessing the length of the transitional period that is required for this sector. As mentioned in the previous context, Chinese Taipei at this moment is not prepared to accede to the Civil Aircraft Code.

2. Question 4: Adherence to GATT Codes:

- (a) The response suggests that the only reason Chinese Taipei will require a transition period in respect of its accession to the Tokyo Round Licensing Code is that it needs time to promulgate rules and amendments to make its system more transparent. How long does Chinese Taipei envisage it will take to make amendments to legislation in order to meet the requirements of the Licensing Code? Given that Chinese Taipei is currently in the process of changing its import licensing system, why would Chinese Taipei not at the same time make the necessary changes to its legislation and regulations in order to make accession to the Code possible at the time of accession?

Reply 2(a)

As a matter of fact, Chinese Taipei has already started amending the law and regulation that will be affected by the drafted new licensing system. It also wishes to complete the amendment process at the earliest possible. However, as this exercise involves amendments to many existing laws and regulations, a change cannot be easy and definitely takes time. Although Chinese Taipei is willing to accede the Licensing Code as soon as it can, according to its preliminary estimate, a three-year transition period may be necessary.

- (b) Does Chinese Taipei now have a clearer idea of the time required for adhering to the Tokyo Round Codes with which it feels it will not be able to comply upon accession? (ex. Aircraft and Procurement Codes)

Reply 2(b)

Chinese Taipei has not decided to accede to the Aircraft and Procurement Codes. It will consider the length of the transitional period for the two Codes when it has decided to accede to these two Codes. Chinese Taipei is still reviewing its industrial and agricultural policies in order to determine the transitional periods required for other Tokyo Round Codes.

3. Question 15: Current economic situation:

Regarding the Six-Year National Development Plan, under what circumstances would foreign firms not be welcome to compete? When would an open tender process not be used? What are the limited exceptions to the equality of treatment of foreign firms (as among themselves) in competing for projects under the Six-Year National Development Plan?

Reply 3

Foreign firms are generally welcome to compete for projects under the Six-Year National Development Plan. Where domestic industry has the ability to undertake the work and there is a need for development of the industry concerned, only domestic firms are invited to participate in bidding for the projects.

In the cases where using single tendering and selective tendering meet the prescribed criteria, an open tender process would not be used. As to the criteria for using the single tendering or selective tendering, please refer to the Follow-up Reply XXIII, Sections J and L (pages 25-28) of the document replying to questions of Canada concerning document L/7189, which was presented to Canada's delegation on 28 June 1993 and circulated by the Secretariat during last Working Party meeting.

Except Japanese and Korean firms under certain circumstances, all foreign firms are equally welcome to compete for projects open for foreign firms under the Six-Year National Development Plan. The reasons to restrict some of the procurement from Japan and Korea are the large trade imbalance and the break of diplomatic ties, respectively.

4. Question 45(2)b: Duty exemption:

- (a) Could Chinese Taipei provide a comprehensive list (by HS numbers) of those products not eligible for duty exemption?

Reply 4(a)

In order to implement the automation of the Customs and accelerate the custom clearance, the required list (by HS number) of the raw materials not eligible for duty exemption is under rearrangement. After it finalizes the process, Chinese Taipei will submit the list to the Secretariat promptly.

- (b) Chinese Taipei has indicated that products not qualified for duty exemption have zero rates or "very low" tariff rates. What qualifies as a "very low" tariff rate in this circumstance? What rate qualifies and what conditions must be taken into account?

Reply 4(b)

Raw materials not qualified for duty exemption are products of which duty exemption has been cancelled by the authority through public announcement. Tariff rate below 5 per cent or the tariff burden accounting for less than 1 per cent of the f.o.b. price of the product will be deemed as "very low" rate and be listed by the relevant authorities as not qualified for duty exemption in order to simplify the Customs procedure.

5. Question 49: Application of laws and regulations in conformity with GATT:

- (a) The response to this question discusses the GATT-consistency issues raised in Question 49, but does not identify the industries or sectors which may require protection. Could these be specified?

Reply 5(a)

A preliminary review of the current taxes, charges, and tariff surcharges of Chinese Taipei reveals that there exist no GATT-inconsistent practices which are for the purposes of protecting domestic industries.

- (b) Could Chinese Taipei provide a comprehensive list of all existing taxes and other charges which are applied on imported goods only?

Reply 5(b)

There are no existing taxes and other charges which are applied on imported goods only.

6. Questions 76-78: Harbour construction dues:

How can Chinese Taipei justify the consistency of harbour construction dues with GATT Article III if they do not apply to Chinese Taipei's inter-island trade?

Reply 6

Chinese Taipei is still reviewing the issue.

7. Questions 90-97: Export Processing Zones (EPZs):

- (a) Chinese Taipei has indicated that EPZ firms benefit from tax exemptions in accordance with the "Statute for Upgrading Industry", What percentage do they represent out of the total amount of industries which benefit from such exemptions?

Reply 7

Around 41.6 per cent of the EPZ firms benefit from tax exemption granted by the "Statute for Upgrading Industries."

8. Questions 94-95: Statute for Upgrading Industries:

We remain concerned about the transparency of the criteria used for determining which firms receive assistance under "Statute for Upgrading Industries". We would appreciate if Chinese Taipei could provide:

- (i) a sectoral breakdown of its spending under the Statute for Upgrading Industries;
- (ii) a copy of the "Scope of Application of Important Technology-Based Enterprises Engaged in Manufacturing Business", and the "Scope of Application of Important Invested Enterprises Engaged in Manufacturing Business" which set the criteria for determining eligibility for assistance under the Statute for Upgrading Industries.

Reply 8

- (i) A table of tax exemption breakdown under the Statute for Upgrading Industries is attached hereto. (Annex I)
- (ii) A copy each of the "Scope of Application of Important Technology-Based Enterprises Engaged in Manufacturing Business" (Annex II), and the "Scope of Application of Important Invested Enterprises Engaged in Manufacturing Business" (Annex III) is also attached hereto.

9. Question 98: Price controls:

Could Chinese Taipei provide the exact HS number of those currently subject to price controls or those which could be subject to such controls in the future? Could we obtain a copy of the laws and regulations guiding the price control system?

Reply 9

Chinese Taipei will provide the response to this question at a later stage.

10. Questions 101-178: Licensing system:

- (a) According to the information provided by Chinese Taipei, it would appear that licences will still be required for a large number of items. What will be the procedure to obtain a licence? With regard to the third category of licences for items not on the negative list, we are concerned that this system will cause problems for exporters. How is this category different from the old automatic licensing system?

Reply 10(a)

The procedure to obtain a licence is to apply to the Board of Foreign Trade upon fulfilling the requirements set forth in the relevant import laws and regulations, such as obtaining a consent letter from another authority which is in charge of the specific product involved. As to what laws and regulations shall be complied with, please refer to the Customs Import Tariff and Classification of Import and Export Commodities.

As to the items listed in the "Table of Commodities Subject to the (Customs) Delegated Examination," their importation is even easier than the current automatic licensing system because there is no licence issued by the BOFT or designated banks required. As long as the importation complies with the relevant administration rules, which may be proved to the Customs with a certificate or a letter of relevant authority, the respective products can go through the Customs directly without licences.

- (b) What criteria will be used to amend the "Negative List"? What will be the responsible authority?

Reply 10(b)

The Board of Foreign Trade is the authority responsible for co-ordination of relevant authorities to amend the "Negative List." In other words, if one authority amends a regulation which is relating to the import administration or lifts import restrictions on certain products, the BOFT will accordingly amend the negative list.

- (c) Will there be a "one-stop shopping" (i.e. only one ministry or government department to deal with" in obtaining a licence when one is required)?

Reply 10(c)

The licence issuer will be only one, either the BOFT or a designated bank. However, before applying for the licence, the importer may need to acquire other documents from the other agencies in order to prove to the BOFT that it complies with the relevant import law and regulation. Chinese Taipei appreciates the convenience of "one-stop shopping." Nevertheless, the BOFT at the current stage may still need to co-ordinate with the relevant agencies in charge of various products to complement the regulations of importation administration. Therefore, the consent letters issued by the authorities in charge of the products may still be needed to facilitate the BOFT or the designated banks to issue the licence.

- (d) For the "third category" of products under the new licensing system, can we assume that there will be no procedures to go through to import a product?

Reply 10(d)

Please refer to supra Reply 10(a), paragraph 2.

- (e) What criteria and procedures will be used for deciding to include or exclude certain tariff line items from the discretionary licensing system? Will these criteria be published?

Reply 10(e)

Under the new Negative List, there will be no discretionary licensing system. The second category of the Negative List, i.e. the "Table of Conditional Import Commodities," in spirit, is totally different from the discretionary system.

- (f) What are the criteria used for the approval of licences for import controls? What criteria will be used for lifting import bans?

Reply 10(f)

Unless under special circumstances, for example, imports of limited quantity of samples for experimental purpose where the BOFT may grant approval as exceptions, no import banned items under the Negative List will obtain the approval of licence.

Import bans under the Negative List are imposed for various reasons. If the imposition is to preserve public morals, to ensure national or social security, to protect human life or health, or to conserve the environment, as the General Agreement permits, then the lifting cannot be done until the concerned threat disappears. If the imposition is to assist industry restructure, the lifting of bans will depend on the relevant agricultural and industry policies.

- (g) For which products does Chinese Taipei anticipate retaining GATT-inconsistent import licensing?

Reply 10(g)

The new import licensing system Chinese Taipei is structuring now will take into account the transparency requirement set forth in the Licensing Code. For part of the import bans or restrictions, which may not be justified under the GATT, Chinese Taipei will make proper adjustment according to the relevant agricultural and industry policies.

- (h) What criteria will have to be met for an import licence to be issued through an authorized bank?

Reply 10(h)

An authorized (designated) bank will issue an import licence if the importation meets the criteria set in the Customs Import Tariff and Classification of Import and Export Commodities.

11. Question 142: Wheat and wheat flour:

- (a) Chinese Taipei has indicated that from June 1993 onwards restrictions on wheat imports (in terms of the qualification of importers) have been relaxed. We understand that there are still however a number of restrictions applied. Please describe the nature of these restrictions and the rationale for maintaining such restrictions. Can Chinese Taipei also explain how the current importation process functions?

Reply 11(a)

Although since 1 June 1993, wheat imports have been liberalized in terms of the qualifications of the importers, the import quantity is still subject to the government's monitoring, so that in case of need the government can take necessary measures according to the Statute for Agricultural Development.

The liberalization in terms of the qualification of the importers is to allow the following parties to import wheat:

- (i) Foodstuff traders whose business covers trade in wheat or wheat flour, and
- (ii) Manufacturers holding factory licences whose raw materials include wheat or whose business activities include processing of wheat flour.

Such parties have to apply to the Board of Foreign Trade (BOFT) for registration as qualified importers. When these qualified importers import wheat, they have to obtain consent letters from the Council of Agriculture first, then with such consent letters apply for the import licence from the BOFT.

- (b) Chinese Taipei currently maintains a ban on wheat flour. Wheat flour is consumed in a different form than rice. In terms of consumer preference, although the nutritional value may be similar, it is not a direct substitute for rice eaten as meals. Could Chinese Taipei indicate why wheat flour is considered as a substitute for rice and which food production and processing sector(s) it wishes to protect by maintaining this ban?

Reply 11(b)

Chinese Taipei will review the restriction after it evaluates the impact of the newly liberalized wheat imports system.

12. Question 251: Steel:

Can domestic firms purchase imported steel or are they obliged to purchase steel from the China Steel Corporation at higher prices? If the latter applies, what mechanisms are in place to ensure that domestic firms do not purchase imported steel (which according to the information provided may be cheaper)?

Reply 12

In Chinese Taipei, firms can purchase imported steel freely without any restriction. Domestic firms are not required to purchase steel from China Steel.

13. Questions 257-289: Agricultural policy:

- (a) Chinese Taipei refers to the need to consolidate the structure of its agricultural sector and increase the contribution of value-added production. Can Chinese Taipei describe the impact that its proposal may have on its production and imports of beef, pork, oilseeds, wheat and wheat flour?

Reply 13(a)

Consolidating the structure of its agricultural sector and increasing the contribution of value-added production have been Chinese Taipei's determined policy. Under this policy, imports of beef, pork (except for belly of swine), oilseeds, and wheat have been liberalized. It will continue the efforts in contracting the sectors not cost-efficient and increasing the contribution of the value-added sectors.

- (b) Chinese Taipei has indicated that trade in certain fresh fruit will not be subject to m.f.n. treatment. Can Chinese Taipei indicate which fresh fruit may not be subject to m.f.n. treatment?

Reply 13(b)

Chinese Taipei fully respects the m.f.n. principle and never has the intention to seek any exception to it. However, in order to adjust some current practices left over by past bilateral talks which were the only ways available for Chinese Taipei in resolving trade issues due to its lack of access to international society before, Chinese Taipei wishes to have a transitional period. The suggestions of contracting parties regarding the length of the transition period and the measures that shall be taken during the period are welcome.

Chinese Taipei is still reviewing its current practices relating to imports of fresh fruit and has not decided which fresh fruit may not be subject to m.f.n. treatment during the transitional period.

14. Question 279: Barter trade:

In its reply, Chinese Taipei has indicated that all barter arrangements in agricultural trade have been "suspended" since October 1992. Will Chinese Taipei commit itself not to reintroduce barter trade for agricultural trade in the future? Have all barter arrangements across all sectors been abolished? If not, which sectors of Chinese Taipei's economy are still subject to barter trade?

Reply 14

Currently there is no barter trade arrangement in any sector of Chinese Taipei, but Chinese Taipei cannot rule out the possibility to reintroduce barter trade for agricultural products.

15. Question 297: Foreign investment policy:

Could Chinese Taipei please describe the "serious economic and social disruption" it claims would flow from its adherence to the TRIMs text (quote from response to Canada's questions circulated to the Working Party 28 June 1993).

Reply 15

The remark of "economic and social disruption" was made in the context of a transitional period required for Chinese Taipei's accession to the General Agreement and Tokyo Round Codes, without taking into account the TRIMs, which is part of the Uruguay Round. Chinese Taipei is particularly concerned about the employment problem of the labour employed in the automobile and motorcycle industries and the possible economic and social disruption that may be caused by the labour immobility.

16. Questions 298-319: Financial services:

- (a) Restrictions on commercial presence:
  - (i) Foreign Banks - Will the revised guidelines for the screening and approval of the establishment of branch offices and representative offices by foreign banks address or remove the following measures:
    - (a) the designation of locations in which bank branches may be established;
    - (b) the discriminatory ownership and acquisition restrictions which limit foreign ownership in any bank incorporated in Chinese Taipei to 5 per cent individually and 15 per cent collectively;
    - (c) restriction of establishment via a quota on branch approvals and on multiple branching;
    - (d) the requirements for establishment with respect to levels of business activity that must be transacted with the banks and major enterprises in Chinese Taipei prior to the date of application for a branch office?

In addition, does Chinese Taipei intend to remove the economic needs test in instances where foreign banks intend to have locally more than two branches? Does Chinese Taipei also intend to remove the reciprocity requirement?

Reply 16(a)(i)

The revised guidelines do not remove the designation of locations for foreign banks' branches. However, under the economic needs test, foreign banks may still be able to set branches outside the locations designated by the said Guidelines. For example, Citibank, N.A. now has four branches located out of those cities prescribed by the said Guidelines.

The ownership and acquisition restrictions mentioned in sub-question (B) are set forth in Article 25 of the Banking Law, not in the said Guidelines. Furthermore, such restrictions are not specifically designated to discriminate against foreigners but to disperse the ownership of a bank; the restrictions apply to nationals of Chinese Taipei as well.

With respect to the restriction of establishment via a quota on branch approvals referred to in sub-question (C), the Ministry of Finance is studying the possibility of revision. As to the limitation on foreign banks' multiple branching, currently there is no plan for revision, but foreign banks may seek exceptions to the multiple branching restriction under the economic needs test.

As to the requirement of prior business activity with the banks and major enterprises in Chinese Taipei, there is no revision plan. However, in addition to the prior-business-activity approach, currently there are several alternatives by which a foreign bank may apply for establishment of a branch office. Where the application for establishment of a branch is resulting from acquisition or in accordance with the principle of reciprocity, or the applying foreign bank is a national representative one, according to Article 3, 6 and 5 of the said Guidelines respectively, the application is not subject to the prior-business-activity requirement.

Chinese Taipei currently does not intend to remove the economic needs test. Nevertheless, the economic needs test does not restrain multiple branching; instead, it provides an exception to the multiple branching limitation. For example, with the test, the MOF approves Citibank to have six branches in Chinese Taipei.

As to the reciprocity principle, Chinese Taipei does not intend to remove it, either. It is the alternative basis for branch establishment. With this, the foreign bank can have more options for branch establishment.

- (ii) On the question of foreign liability limits, we note that the issue for Canadian banks is not necessarily the aggregate limit and utilization but rather the setting of limits for individual banks. Is Chinese Taipei willing to address this concern?

Reply 16(a)(ii)

In the recent adjustment of foreign liability limits (11 August 1993), the Central Bank of China took account of the actual foreign liability of each individual bank, the amount of foreign exchange such a bank borrows and lends through SWAP, and the amount it borrows from domestic banking units. The CBC then chose the higher one of the old ceiling or 115 per cent of the aggregate amount of the above items to be the new ceiling of each individual bank. Accordingly, the needs of individual banks has been taken care of.

- (iii) We believe that foreign bank deposit limits set out in the "Guidelines for the Screening and Approval of the Establishment of Foreign Banks" unfairly limit the growth of foreign banks as well as their profit generation capabilities. Is Chinese Taipei willing to make changes to the guidelines regarding foreign bank deposit limits?

Reply 16(a)(iii)

To ensure the soundness of foreign bank operation and to protect local depositors, Chinese Taipei does not have any plan to change foreign bank deposit limits.

17. Questions 349-368: Government procurement:

- (a) Could Chinese Taipei provide statistics on government procurement, even if such statistics are in a "raw" form. We note that Central Trust procurement alone represents an annual figure of US\$1 billion.

Reply 17 (a)

Since Chinese Taipei's procurement entities rarely have compiled any statistics, Chinese Taipei at the current stage can only provide with statistics in a "raw" form as follows.

- (i) The annual value of total government procurement (both for self-use and for resale by all government entities, at all levels of government including State enterprises but excluding military expenditures) is about US\$10 billion in rough estimation;
- (ii) Chinese Taipei cannot estimate how much of the aforementioned total procurement was above the Procurement Code threshold level. But to take the procurement made by the Central Trust of China in the fiscal year of 1992 for example, the procurement above the said threshold level accounted for 92 per cent of the annual value of CTC's total procurement. As to the procurement made by the ten State enterprises, including

for their self-use and for resale, the procurement above the threshold level accounted for 84 per cent of US\$4.5 billion, i.e. their 1992 annual procurement value;

- (iii) Of the value of the above Code threshold procurement, 94 per cent in the case of the CTC and 60 per cent in the case of the ten State enterprises were awarded to foreign suppliers or their agents;
  - (iv) Of the value of the above Code threshold procurement, 25 per cent in the case of the CTC and 42 per cent in the case of the ten State enterprises were restricted or negotiated tenders;
  - (v) The total annual value of services procurement and construction procurement made by government entities at all levels including State enterprises is US\$10 billion in rough estimation;
  - (vi) As to the value of procurement above and below the Code threshold by departments at the Central Government level and the provincial government level and State enterprises as well as public enterprises under the auspices of the provincial government, please refer to the answers above.
- (b) With regard to the responses given to United States questions on Government Procurement (document circulated to Working Party on 28 June 1993), we note that under the Law of Audit, certain procurement is awarded after conducting a "market survey". How are these surveys carried out?

Reply 17(b)

There are two forms of market survey: one is through public notice and carried out in a way consistent with the qualification review process set forth in the Code, and the other is not through public notice but based on the information the procurement entities possess in the selection of suppliers to participate in the tendering process.

- (c) With regard to sources of procurement, does Chinese Taipei take into account the reduction of trade surpluses with its trading partners (i.e. USA) when choosing sources?

Reply 17(c)

Since the trade surplus with the United States has been reduced, Chinese Taipei has suspended the taking of such measure in reducing the trade imbalance.

- (d) The following questions are follow-up questions to the responses given by Chinese Taipei to the questions of Canada in the document dated 28 June 1993, and circulated at the meeting of the Working Party on that date. The numbering system follows that of the circulated document.

Section B: Tender specifications:

- (1) Chinese Taipei has indicated that specifications are provided in terms of performance and design or a combination of the two. Specifications by "design" are contrary to the disciplines of the Procurement Code. Chinese Taipei has also indicated that if reference brands are used in the specifications then equivalents be considered for all tenders? If not, is Chinese Taipei prepared to make this a requirement for all tenders?

- (2) If there are other requirements not based on international standards or other standards etc., how can they be prescribed in a manner by which bidders are expected to comply?

Section D: Threshold levels:

- (1) Chinese Taipei has indicated that the threshold value of NT\$50 million does not apply to pure services projects because they are not under the jurisdiction of the Law of Audit and the Statute Governing the Audit of Construction Contracts, Procurement Contracts and Selling Government Properties. What regulations and threshold values, if any, are applied in the procurement of pure services?

Section E: Valuation of contracts:

- (2) What types of administrative penalties are available? Please provide examples where penalties have been imposed. What happens to contracts in such instances? What is the remedy to the bidder? Is the tender re-bid?
- (4) How often in the last five years has Chinese Taipei implemented offset requirements in contracts? What were the value of the contract and offsets?

Section F: Qualification of suppliers:

- (2) Please explain the process involved in obtaining the required licences for construction projects or telecommunications projects, or for the supply of medical equipment.

Section H: Time-limits for participating:

Are extensions of time-limits automatically provided if requested by a supplier?

Section J: Negotiation:

- (1) Can Chinese Taipei provide a definition of the term "in the area" as it is applied in the various contexts of Articles 7 and 11 of the Statute Governing the Audit of Construction Contracts, Procurement Contracts and selling of Government Properties?

Reply 17(d)

Section B:

- (1) According to the wording of item 2 of Article IV of the Government Procurement Code, "any technical specification prescribed by procurement entities shall, where appropriate, be in terms of performance rather than design," specifications by "design" are not completely banned by the Code. Therefore, Chinese Taipei does not think its specification in terms of design is contrary to the Code requirement.

If reference brands are used in the specifications, equivalents will also be considered.

- (2) If the requirements cannot be prescribed with international standards or other standards, such as the type of transmission, the colour, and the accessories of a vehicle, they will be specified in a concrete manner for bidders to follow.

Section D:

- (1) There is no regulation or threshold value currently applied in the procurement of pure services. Although the Executive Yuan of Chinese Taipei has promulgated "Keypoints for Government Entities Commissioning Technical Advisory Institutions to Provide Technical Service," the Keypoints only regulate the manner in which government entities commission domestic or foreign technical advisory institute for technical services, but does not set any threshold.

Section E:

- (2) The administrative penalties that may be imposed on the responsible officials according to Article 9 of the Law Governing the Discipline of Government Officials include dismissal, suspension, demotion, decrease of salary, record of a demerit, and warning.

Since the procurement entities of Chinese Taipei comply with the Audit Law quite well, there have been no cases imposing the above penalties.

In case of violation of the Audit Law there will be no remedy to bidders but the tender will be cancelled provided that the contract has not been awarded. If a contract has been awarded, whether to cancel the award or not will be subject to negotiation.

- (4) In the last five years, only in the procurement of the mechanic and electric equipment of high speed transit system, rolling stock, airplanes, incinerators, and the equipment of power plants, offsets have been imposed. The value of those contracts is estimated to be above US\$2 billion, and the value of offsets accounted for 10 per cent to 40 per cent of those contracts' value.

Section F:

- (2) The processes in obtaining the required licences for construction projects, telecommunication equipment subject to government control, and for the supply of medical equipment are as follows:

- For construction projects:

According to the Regulations Governing Construction Industry promulgated by the Ministry of Interior, a construction firm cannot start operation until it applies for registration with the Ministry of Interior or the agencies delegated by the Ministry. Upon its application, the applicant shall submit an application form as well as the required qualification certificates. After the review of the licence issuing agencies, a licence of registration will be granted.

- For telecommunication equipment subject to government control:

According to the Implementation Keypoints Regulating Telecommunications Equipments subject to Government Control Approved by the Ministry of Transportation and Communication, any firm with a corporate licence and intending to operate import, sale, or repairing of control equipment has to obtain the licence prescribed in the Keypoints. An applicant shall submit to one of the three Telecommunications Administration Bureaus (of the Northern Taiwan, Mid-Taiwan, and Southern Taiwan) an application form and a copy of corporate licence through the association it belongs to.

- For import of medical equipment:

According to the Notice of Registration of Imported Medical Equipment promulgated by the Health Department, importers of medical equipment shall have the vendor qualification of medical equipment and the pharmacy permit licence for imported medical items. An applicant shall submit an application form, the original description of the equipment as well as its Chinese translation, the certificate of production and sale, and the power of attorney from the producers to the Health Department for Registration; after review, a licence of registration will be granted.

Section H:

If the time-limit has been set long enough for most suppliers to prepare for required documents, the procurement entities may not grant extension upon an individual supplier's request.

Section J:

- (1) The term "in the area" refers to the procurement area. The coverage of the area may vary. It may be limited to the territory of Chinese Taipei, or extend to the area of countries except some particular areas, or include all the countries and areas in the world.

18. Question 176: State enterprises:

- (a) If a provincial enterprise acts in a GATT-inconsistent manner, does the central government have the power to ensure compliance?
- (b) With respect to State enterprises, does the ownership (i.e. the government) have the ability to direct procurement decisions for inputs?
- (c) What is the constitutional relationship between the powers of central and provincial governments regarding State enterprises?
- (d) In its Memorandum on Foreign Trade Régime (page 28) Chinese Taipei indicated that State enterprises "take government policy into account". How does this relate to the requirements of GATT Article XVII?

Reply 18

- (a) Legally the central government has no power to directly intervene in the decision-making process of the provincial enterprises. However, as according to Article 111 of the Constitution, government procurement is a matter that is domestic in nature, and therefore the central government may through domestic legislation indirectly control the procurement practice of provincial enterprises.
- (b) The extent to which the ownership may affect a State enterprise's procurement decisions depends on the corporate structures and the organizational charters of the enterprises concerned. Even though the government may have the influence on the procurement decisions, the government itself is obligated to ensure that the decisions made by State enterprises are based on commercial considerations as such enterprises are profit-seeking enterprises and have to be responsible to their non-government shareholders; in case of loss, the government will not subsidize the loss.

- (c) According to Article 109 of the Constitution of Chinese Taipei, provincial enterprises fall within the power of the provinces under the central government. Article 111 of the Constitution, which sets out the general criterion for distinction between entities of Chinese Taipei's central and provincial governments, provides that those matters that are domestic in nature shall fall within the jurisdiction of the central government while those matters that are provincial in nature shall fall within the jurisdiction of the Province.

Enterprises which are more than 51 per cent owned by the provincial government are considered as provincial enterprises and for purpose of Article 109 are to be governed by the provincial authorities. Despite so, as procurement is a matter domestic in nature and shall fall within the jurisdiction of the central government according to Article 111 of the Constitution, the audit and import/export regulations made by the central authorities shall also apply to the procurement practices of provincial enterprises. Furthermore, international trade, according to Article 107, falls within the power of the central authorities.

- (d) Please refer to supra (b) item.

19. Question 460: Services:

What are the laws and regulations that govern the certification of professionals in the following sectors: computer and related services, construction management, architectural services, engineering services?

Reply 19

The laws and regulations governing the certification of professionals are as follows:

- Computer and related services: nil.
- Construction management:  
Regulation for Constructional Industry;  
Regulation and Permission for Employment of Foreign Technical Personnel by Constructional Industry.
- Architectural services:  
Architects Law;  
Regulation and Permission for Employment of Foreign Technical Personnel by Architects.
- Engineering services:  
Technicians Law.
- Accounting services:  
Accountants Law.

- Legal services:

Lawyers Law.

20. Question 465: Trade laws, etc:

Are international treaties self-executing under the law of Chinese Taipei?

Reply 20

Chinese Taipei shall respect international treaties in accordance with its constitution. By its constitution, the international treaties shall come into force after they are duly ratified by the President with the consent of the Legislative Yuan (Congress).

According to the legal system and judicial practice set up by Chinese Taipei, an international treaty has the same validity as municipal law and in some cases it is superior to municipal law.

ANNEX I

Tax Reductions due to Implementation of Statute for Upgrading Industries

Unit: 1,000 New Taiwan Dollars

Items of Tax	Article of the Statute	Items	Tax deductible Income	Tax reduction
Business Income Tax	§5 accelerated depreciation	1. two-year accelerated depreciation for R & D equipment	5,829	1,090
		2. two-year accelerated depreciation for energy-saving equipment	99,704	24,926
		3. 50% reduction of useful life for specific machinery	852	128
	§6 corporate investment tax credit	1. automation equipment & technology investment	2,840,621	968,354
		2. pollution prevention equipment & technology investment	223,626	135,267
		3. R & D investment	4,350,247	1,518,602
		4. investment in personnel training	593,172	70,355
		5. investment in brand promotion	93,520	22,275
	§7 corporate investment tax credit	investment for regional balance promotion	38,983	7,608
§8 institutional shareholders investment tax credit	1. investment by institutional shareholders in important technology-based enterprises	0	0	
	2. investment by institutional shareholders in important invested enterprises	0	0	
	3. investment by institutional shareholders in venture capital enterprises	0	0	

Items of Tax	Article of the Statute	Items	Tax deductible Income	Tax reduction
	§10	foreign investment loss reserves	131,152	28,177
	§11	20% withholding tax for institutional investors	---	5,503
	§15	exemption from mandatory distribution of profits	248,941	24,894
	§16	deferral of income tax for stock dividends to institutional shareholders	1,231,947	136,883
	§17	deferral of income tax for stock dividends to venture capital's institutional investors	6	1
	§18	exemption of incremental tax for reappraisal of assets value	95,706	23,927
	§19	tax exemption for reserve from the stock price over par value	631,830	152,482
	§20	dividend income exemption for companies limited by shares investing in venture capital enterprises	180,240	46,846
	Sub-total		10,766,386	3,168,781
Individual's Investment Income Tax	§8	1. investment by individual investors in important technology-based enterprises	0	0
		2. investment by individual investors in important invested enterprises	0	0
		3. investment by individual investors in venture capital enterprises	0	0
	§9	tax exemption for royalties or sale income of patent rights or computer software copyrights	---	---

Items of Tax	Article of the Statute	Items	Tax deductible Income	Tax reduction
	§11	20% withholding income tax for non-residents	---	511
	§16	deferral of income tax for stock dividends to venture capital's individual investors	---	---
	§17	1. deferral of income tax for stock dividends to venture capital's individual investors	---	---
		2. income tax deferral for capital increase using employees bonus	---	---
	Sub-total		---	511
Preferral land value increment tax	§13	1. deferral of land increment tax for land acquisition from merger approved by the MOEA	---	---
		2. refund of land increment tax for change of plant-site cost increment	---	---
	§14	1. reduction of land increment tax for implementation of city planning	---	95
		2. reduction of land increment tax for pollution control, public safety, environment protection	---	---
		3. reduction of land increment tax for moving of plant-site	---	---
	Sub-total		---	95
Stamp Tax	§13	merger approved by the MOEA	---	---
	Sub-total		---	---
Deeds Tax	§13	merger approved by the MOEA	---	---
	Sub-total		---	---
Total			10,766,386	3,169,387

"---" represents "not available".

## ANNEX II

### Scope of Application of Important Technology-based Enterprises Engaged in Manufacturing Business

Promulgated by the Executive Yuan,  
on 31 January 1992 per its letter  
No. Tai-81-Tsai 04472

#### Article 1

This Scope of Application is stipulated pursuant to the provisions of paragraph 3, Article 8 of the Statute for Upgrading Industries.

#### Article 2

In order to be categorized as an important technology-based enterprise engaged in manufacturing business, the following requirements of the scope of application shall be met:

- (1) The products of the investment project shall be within one or more of the following categories, i.e. communications, information, consumer electronics, semi-conductors, precision equipment and automation machinery, aeronautics and aerospace, high-end materials, special chemicals and pharmaceuticals, medical and health care, pollution prevention and control;
- (2) The amount of either the paid-in capital or the increased paid-in capital of the investment project shall be in an amount over one billion New Taiwan dollars (NT\$1,000,000,000);
- (3) The amount of the capital used in purchase of machinery and equipment under the investment project shall be over five hundred million New Taiwan Dollars (NT\$500,000,000); and
- (4) The investment project shall be completed within three (3) years after the approval of the project.

#### Article 3

An enterprise satisfying the requirements set forth in the preceding Article shall, within three (3) months following the date of the promulgation of this Scope of Application, or within six (6) months following the date of the permit of its factory establishment, apply to Industrial Development Bureau, Ministry of Economic Affairs for issuance of a certificate of important technology-based enterprise by filing the following documents:

- (1) The detailed list of the machinery and equipment;
- (2) The investment plan and the work schedule of the plant construction;
- (3) Photocopies of the certificate of incorporation and the permit for factory establishment.

Industrial Development Bureau, Ministry of Economic Affairs shall, while issuing aforesaid certificate to the applicant, inform the Department of Taxation, Ministry of Finance of such issuance by sending the said Department a copy of the approved letter.

Article 4

This Applicable Scope shall come into force on 1 January 1991 and shall remain in force until 31 December 1992.

ANNEX III

Scope of Application of Important Invested Enterprises  
Engaged in Manufacturing Business

Promulgated by the Executive Yuan,  
on 31 January 1992 per its letter  
No. Tai-81-Tsai 04472

Article 1

This Scope of Application is stipulated pursuant to the provisions of paragraph 3, Article 8 of the Statute for Upgrading Industries.

Article 2

In order to be categorized as an important invested enterprise engaged in manufacturing business, the following requirements of the scope of application shall be met:

- (1) The products of the investment project shall be produced by an enterprise other than the important technology-based enterprises;
- (2) The amount of either the paid-in capital or the increased paid-in capital of the investment project shall be in an amount over two billion New Taiwan Dollars (NT\$2,000,000,000);
- (3) The amount of the capital used in purchase of machinery and equipment under the investment project shall be over one billion New Taiwan Dollars (NT\$1,000,000,000);
- (4) The investment project shall be completed within three (3) years after the approval of the project; and
- (5) The investment project shall be instrumental to the upgrading of industries as well as to be in conformity to the standards of environmental quality.

Article 3

An enterprise satisfying the requirements set forth in the preceding Article shall, within three (3) months following the date of the promulgation of this Scope of Application or within six (6) months following the date of the permit of its factory establishment, apply to Industrial Development Bureau, Ministry of Economic Affairs for issuance of a certificate of important invested enterprise by filing the following documents:

- (1) The detailed list of the machinery and equipment;
- (2) The investment plan and the work schedule of the plant construction;
- (3) Photocopies of the certificate of incorporation and the permit for factory establishment.

Industrial Development Bureau, Ministry of Economic Affairs shall, while issuing the aforesaid certificate to the applicant, inform the Department of Taxation, Ministry of Finance of such issuance by sending the said Department a copy of the approval letter.

Article 4

This Scope of Application shall come into force on 1 January 1991 and shall remain in force until 31 December 1992.